UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS

KENNETH FENNELL, § § § § Plaintiff, VS. § § **BAYLOR HEALTH CARE SYSTEM** CIVIL ACTION NO. 3:14-cv-00313 d/b/a BAYLOR REGIONAL MEDICAL 888 **CENTER AT PLANO; BAYLOR REGIONAL MEDICAL CENTER AT** PLANO; and DALLAS MEDICAL 99999 CENTER, LLC d/b/a DALLAS MEDICAL CENTER, Defendants. Ş

STIPULATION OF DISMISSAL

Plaintiff Kenneth Fennell and Defendants Baylor Health Care System d/b/a Baylor Regional Medical Center at Plano and Baylor Regional Medical Center at Plano (hereinafter "Baylor Defendants") file this stipulation of dismissal under Federal Rule of Civil Procedure 41(a)(1)(A)(ii).

- 1. Plaintiff Kenneth filed this lawsuit against the Baylor Defendants on January 27, 2014 for claims arising from injuries he allegedly suffered in a surgery performed by Dr. Christopher Duntsch, a neurosurgeon. Plaintiff further alleged that Dr. Duntsch should have been reported to the National Practitioner Data Bank or the Texas Medical Board because of his alleged adverse surgical outcomes at the Baylor Regional Medical Center at Plano.
- 2. Plaintiff later filed a motion for leave to amend the lawsuit to include Dallas Medical Center, LLC d/b/a Dallas Medical Center as a defendant, which was granted on November 14, 2014.

- 3. Having come to an agreeable resolution of the claims filed, Plaintiff and the Baylor Defendants now move to dismiss the lawsuit.
- 4. Plaintiff would also like to dismiss his claims against Defendant Dallas Medical Center, LLC d/b/a Dallas Medical Center.
- 5. This case is not a class action under Federal Rule of Civil Procedure 23, a derivative action under Rule 23.1, or an action related to an unincorporated association under Rule 23.2.
 - 6. A receiver has not been appointed in this case.
- 7. This case is not governed by any federal statute that requires a court order for dismissal of the case.
- 8. Plaintiff has not previously dismissed any federal or state court suit based on or including the same claims as those presented in this case.
 - 9. This dismissal is with prejudice.

CONCLUSION

10. For these reasons, Plaintiff and the Baylor Defendants ask the Court to dismiss the lawsuit with prejudice.

Respectfully Submitted,

By: <u>/s/ Kay L. Van Wey</u>
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COUNSEL FOR THE STATE OF TEXAS

CERTIFICATE OF SERVICE

I hereby certify that on June 15th, 2015, I electronically filed the Certificate of Service with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the CM/ECF participants registered to receive service in this matter.

/s/ Kay L. Van Wey Kay L. Van Wey

COUNSEL FOR PLAINTIFF